

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MONADNOCK CONSTRUCTION, INC.,

Plaintiff,

-against-

WESTCHESTER FIRE INSURANCE
COMPANY,

Defendant.
-----X

WESTCHESTER FIRE INSURANCE
COMPANY,

Third-Party Plaintiff,

-against-

GLASSWALL, LLC, UGO COLOMBO, and
SARA JAYNE KENNEDY COLOMBO

Third-Party Defendants.
-----X

Case No.: 16 CIV. 00420 (JBW)
(VMS) ECF Case

**STIPULATION DISMISSING
COMPLAINT WITH
PREJUDICE AND
WITHDRAWING MOTIONS**

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 24 2019 ★

BROOKLYN OFFICE

WHEREAS plaintiff Monadnock Construction, Inc. ("Monadnock") filed a summons with notice against defendant Westchester Fire Insurance Company ("Westchester Fire") on or about December 22, 2015 in the Supreme Court of the State of New York for Kings County (Index No.: 515499/2015); and

WHEREAS Westchester Fire removed the action to this Court on or about January 26, 2016; and

WHEREAS Monadnock filed a complaint against Westchester Fire on or about March 1, 2016; and

LEGAL395647312

*close the case
as ordered
JMK/ent
1/23/19*

WHEREAS Monadnock filed an amended complaint against Westchester Fire, Glasswall, LLC ("Glasswall") and Ugo Colombo on or about October 3, 2017; and

WHEREAS on or about January 12, 2018 Westchester Fire filed a motion for summary judgment to dismiss Monadnock's amended complaint ("Amended Complaint"); and

WHEREAS Monadnock filed a cross-motion for summary judgment against Westchester Fire on or about February 28, 2018; and

WHEREAS on or about July 17, 2018 Monadnock purported to assign to MD Holding, LLC ("MD") the rights and claims set out in a document titled "Assignment of Judgment and Claims," attached hereto as Exhibit A; and

WHEREAS, to account for any possible invalidity of the Assignment, and to ensure that the party properly holding the claims originally asserted by Monadnock in the Amended Complaint appeared in this Action and stipulated to their dismissal with prejudice, MD hereby seeks to intervene in this Action for the purpose of joining with Monadnock to stipulate to the dismissal with prejudice of all such claims; and

WHEREAS the parties, including MD, wish to dismiss with prejudice the claims originally asserted against Westchester Fire in the amended complaint.


NOW THEREFORE IT IS STIPULATED AND AGREED that;

1. MD is permitted to intervene as a party plaintiff to join with Monadnock to effectuate the dismissal with prejudice of the claims referred to in paragraph 3 below.
2. Monadnock and MD agree to jointly dismiss with prejudice the claims referred to in paragraph 3 below.
3. The claims originally asserted by Monadnock against Westchester Fire in the amended complaint are hereby dismissed with prejudice.

4. **Westchester Fire's motion for summary judgment is hereby withdrawn.**
5. **Monadnock's cross-motion for summary judgment is hereby withdrawn.**

DATED: NEW YORK, NEW YORK
JANUARY 11, 2019

WACHTEL MISSRY LLP

By: 
Evan Weintraub

Attorneys for Monadnock Construction, Inc.
885 Second Avenue
New York, New York 10017
Telephone: (212) 909-9500
Telefax: (212) 371-0320

COZEN & O'CONNOR

By: 
John Sullivan

Attorneys for Westchester Fire Insurance Company
277 Park Avenue
New York, New York 10172
Telephone: (212) 883-4900
Telefax: (212) 986-0604

CINQUE & CINQUE, P. C.

By: _____
James P. Cinque, Esq.

Attorneys for Glasswall, LLC
845 Third Avenue, Suite 1400
New York, New York 10022
Telephone: (212) 759-5515
Telefax: (212) 759-7737

MARKO & MAGOLNICK, P.A.

By: _____
Joel Magolnick

Attorneys for Ugo Colombo and
Sara Jayne Kennedy Colombo
3001 S.W. 3rd Avenue

DATED: NEW YORK, NEW YORK
JANUARY 11, 2019

WACHTEL MISSRY LLP

By: _____

Attorneys for Monadnock Construction, Inc.
885 Second Avenue
New York, New York 10017
Telephone: (212) 909-9500
Telefax: (212) 371-0320

COZEN & O'CONNOR

By: _____
John Sullivan

Attorneys for Westchester Fire Insurance Company
277 Park Avenue
New York, New York 10172
Telephone: (212) 883-4900
Telefax: (212) 986-0604

CINQUE & CINQUE, P. C.

By:  _____
James P. Cinque, Esq.

Attorneys for Glasswall, LLC
845 Third Avenue, Suite 1400
New York, New York 10022
Telephone: (212) 759-5515
Telefax: (212) 759-7737

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Joel Magolnick

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Sara Jayne Kennedy Colombo
3001 S.W. 3rd Avenue

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WACHTEL MISSRY LLP

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Attorneys for Monadnock Construction, Inc.
885 Second Avenue
New York, New York 10017
Telephone: (212) 909-9500
Telefax: (212) 371-0320

COZEN & O'CONNOR

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John Sullivan

Attorneys for Westchester Fire Insurance Company
277 Park Avenue
New York, New York 10172
Telephone: (212) 883-4900
Telefax: (212) 986-0604

CINQUE & CINQUE, P. C.

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James P. Cinque, Esq.

Attorneys for Glasswall, LLC
845 Third Avenue, Suite 1400
New York, New York 10022
Telephone: (212) 759-5515
Telefax: (212) 759-7737

MARKO & MAGOLNICK, P.A.

By: _____

Joel Magolnick

Attorneys for Ugo Colombo and
Sara Jayne Kennedy Colombo
3001 S.W. 3rd Avenue

Miami, FL 33129
Telephone: (305) 285-2000
Telefax: (305) 285-5555

BERGER HARRIS LLP

By:


Michael W. McDermott

Attorney for MD Holding, LLC
1105 North Market Street
11th Floor
Wilmington, DE 19801
Telephone: (302) 655-1140
Telefax: (302) 655-1131